

### **SUMMARY OF TELEPHONIC INTERVIEW**

It is noted that the Examiner contacted applicant's attorney on 11/27/2006 in order to get approval for an Examiner's amendment to the claims. The following summary is to provide a complete and proper recordation of the substance of the interview:

(A) no exhibit was shown or any demonstration conducted;

(B) claims 10, 11, and 41 were discussed;

(C) no prior art was discussed;

(D) the principal proposed amendments of a substantive nature are already described on the Interview Summary form completed by the examiner;

(E) the Examiner pointed out that claim 10 depended from a cancelled claim; the Examiner expressed concern that claims 11 and 41 raised issues of patentability under 35 U.S.C. § 101 because of a potential claim to a computer program contained in a data signal;

(F) no other pertinent matters were discussed;

(G) applicant agreed to proposed amendments by the Examiner to change the dependency of claim 10 to depend from claim 1 and to strike "one of" and "and a computer data signal" from claims 11 and 41; and

(H) no part of the interview was conducted via electronic mail.

### **SUMMARY OF TELEPHONIC INTERVIEW**

Applicant thanks the Examiner for the courtesy of a telephonic interview on 01/03/2007. The following summary is to provide a complete and proper recordation of the substance of the interview:

(A) no exhibit was shown or any demonstration conducted;

(B) claims 11 and 41 were discussed;

(C) no prior art was discussed;

(D) applicant proposed that claims 11 and 41 restore -- readable medium-- following "processor" which was deleted by the Examiner's amendment;

(E) applicant argued that the Examiner's amendment limited the claims in a manner never contemplated or authorized by applicant; the Examiner expressed the concern that "a processor readable medium" might still encompass a propagated signal based on paragraph [0017] of the specification;

(F) no other pertinent matters were discussed;

(G) the Examiner stated that an amendment that included the concept of a computer readable storage medium would exclude propagated signals; and

(H) no part of the interview was conducted via electronic mail.

### **REMARKS**

This Amendment is in response to the Notice of Allowability mailed 12/26/2006. In an Examiner's Amendment, the Examiner amended claims 11 and 41. Applicant respectfully requests further amendment of claims 11 and 41 to correct claiming of less than the applicant has the right to claim in the patent.

#### ***Examiner's Amendment of Claims 11 and 41***

The Examiner amended claims 11 and 41 to replace "article of manufacture comprising one of a processor readable medium and a computer data signal" with --article of manufacture comprising a processor--.

Applicant respectfully submits that the Examiner's amendment entirely changes the character of the subject matter claimed and causes the applicant to claim less than the applicant has the right to claim in the patent. Applicant requests that claims 11 and 41 be amended to replace "article of manufacture comprising a processor" with --article of manufacture comprising a processor readable medium that can store information--.

Applicant respectfully submits:

(A) that the amendment is needed to properly claim subject matter that the applicant regards as the invention;

(B) the proposed amended claims require no additional search or examination because the amendment relates only to claiming of propagated signals;

(C) the claims as amended are patentable because they are limited to "processor readable medium that can store information" and propagated signals do not the ability to store information; and

(D) the amendments were not presented earlier because they are in response to a newly presented Examiner's amendment.

Applicant notes that the amendments requested herein are not for the purpose of distinguishing the claimed invention from the prior art and broadening these claims by removing limitations added would not be barred by the doctrine of recapture. Applicant disagrees with the position of the Office that propagated signals represent unpatentable subject matter under 35 U.S.C. § 101. Applicant has amended the claims only to expedite prosecution and reserves the right to seek broader claims that include a computer data signal.

#### ***Conclusion***

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that the requested amendments be entered and the application passed on to Issue.